

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
KATHY ECHEVVARIA,	:	
	:	
Plaintiff,	:	Civil Action No. 13-CV-4980
-against-	:	
	:	
	:	<u>ANSWER</u>
	:	
DIVERSIFIED CONSULTANTS, INC.,	:	
	:	
Defendant.	:	
	:	
-----X	:	

Defendant Diversified Consultants, Inc. (“DCI” or Defendant”), by and through its attorneys, as and for its Answer to the Complaint of Plaintiff, Kathy Echevvaria (“Plaintiff”), hereby states as follows:

INTRODUCTION/PRELIMINARY STATEMENT

1. Defendant admits that Plaintiff purports to bring a Complaint alleging violations of the Fair Debt Collection Practices Act (“FDCPA”), however Defendant denies that Plaintiff has a valid basis for doing so.

PARTIES

2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Complaint.

3. Defendant admits the allegations set forth in paragraph 3 of the Complaint.

4. The allegations set forth in paragraph 4 of the Complaint state a legal conclusion to which no response from Defendant is required. To the extent that a response is required, Defendant denies the allegations set forth in paragraph 4 of the Complaint.

5. The allegations set forth in paragraph 5 of the Complaint state a legal conclusion to which no response from Defendant is required. To the extent that a response is required, Defendant denies the allegations set forth in paragraph 5 of the Complaint.

JURISDICTION AND VENUE

6. The allegations set forth in paragraph 6 of the Complaint state a legal conclusion to which no response from Defendant is required. To the extent that a response is required, Defendant denies the allegations set forth in paragraph 6 of the Complaint.

7. The allegations set forth in paragraph 7 of the Complaint state a legal conclusion to which no response from Defendant is required. To the extent that a response is required, Defendant denies the allegations set forth in paragraph 7 of the Complaint.

FACTUAL ALLEGATIONS

8. Defendant repeats and realleges its responses to the previous paragraphs as if set forth at length herein.

9. Defendant denies the allegations set forth in paragraph 9 of the Complaint.

10. Defendant denies the allegations set forth in paragraph 10 of the Complaint.

11. Defendant denies the allegations set forth in paragraph 11 of the Complaint.

12. Defendant denies the allegations set forth in paragraph 12 of the Complaint.

FIRST CAUSE OF ACTION
(Violations of the FDCPA and TCPA)

13. Defendant repeats and realleges its responses to the previous paragraphs as if set forth at length herein.

14. The allegations set forth in paragraph 14 of the Complaint state a legal conclusion to which no response from Defendant is required. To the extent that a response is required, Defendant states the TCPA speaks for itself.

15. Defendant denies the allegations set forth in paragraph 15 of the Complaint.

16. The allegations set forth in paragraph 16 of the Complaint state a legal conclusion to which no response from Defendant is required. To the extent that a response is required, Defendant states the FDCPA speaks for itself.

17. Defendant denies the allegations set forth in paragraph 17 of the Complaint.

18. Defendant denies the allegations set forth in paragraph 18 of the Complaint.

19. Defendant denies the allegations set forth in paragraph 19 of the Complaint.

DEMAND FOR JURY TRIAL

20. Defendant is not required to respond to paragraph 20 of the Complaint as it states no allegations against Defendant.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant has no civil liability under the FDCPA as any violation was an unintentional, bona fide error and occurred despite the maintenance of procedures reasonably adapted to avoid such violation.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are or may be barred by applicable Statutes of Limitations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are, or may be, barred or diminished by Defendant's right to setoff and/or recoupment arising from defaults, deficiencies or otherwise.

FIFTH AFFIRMATIVE DEFENSE

Defendant is not liable for any actions of its agents or employees committed outside of the line and scope of their employment.

SIXTH AFFIRMATIVE DEFENSE

Defendant did not breach any legal duty to Plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff provided her express consent to receive telephone calls to her cellular telephone using an automatic telephone dialing system.

EIGHTH AFFIRMATIVE DEFENSE

Defendant did not use a telephone dialing system of the type contemplated by the TCPA.

NINTH AFFIRMATIVE DEFENSE

Defendant reserves the right to allege and assert any additional and/or further affirmative defenses as become apparent to Defendant during the course of this litigation.

WHEREFORE, Defendant Diversified Consultants, Inc., demands judgment in its favor and against Plaintiff Kathy Echevvaria, dismissing the Complaint with prejudice and awarding Defendant costs, attorneys' fees, and such other and further relief as the Court deems just and proper.

DATED: September 5, 2013

THE SALVO LAW FIRM, PC
By: s/ Cindy D. Salvo
CINDY D. SALVO

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Attorneys for Defendant,
Diversified Consultants, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2013, a copy of the foregoing pleading was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the court's electronic filing system. I hereby certify that a copy of this pleading will be facsimile transmission, electronic mail, and/or United States mail, properly addressed, and postage prepaid, to any non CM/ECF participants.

DATED: September 5, 2013

THE SALVO LAW FIRM, PC

By: s/ Cindy D. Salvo

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